IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

WRIT PETITION (L) NO.1051 OF 2007

M/s.Gautam Steel .. Petitioner.

Versus

The Dy. Commissioner of Income-tax, Ward No.15(1) & 4 ors. .. Respondents.

Mr.V.J. Pandit with Mr.P.P. Prabhu for the petitioner.

Mr.Ashok Kotangale & Mr.S.M. Shah for the respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 30TH JULY, 2007.

P.C. :

1. Heard. Rule made returnable forthwith.

2. After hearing the learned counsel for quiet a considerable length of time, we find at the highest as of now the grievance would be in respect of Annexure "A" to the affidavit dated 6th July, 2007 of Smt.Banita Devi Naorem, Deputy Commissioner of Income Tax. On behalf of the petitioner, the learned counsel points out that once effect to the order of the Tribunal had to be given effect to and it was not open to the revenue to make adjustments without complying with the mandate of Section 245 of the Income Tax Act.

3. On behalf of the revenue, learned counsel fairly concede on perusal of records that no notice was given to the petitioner before the adjustments were made. In the light of that, present petition can be disposed of by issuing following directions :

i) Revenue to make available to the petitioner copies of the order under heading adjustments within a period of four weeks from today.

ii) On receipt of such orders, it will be open to the petitioner to apply to the respondent No.1 for passing appropriate orders to give effect to the order of the Tribunal according to law within four weeks thereafter.

iii) The respondent No.1 thereafter on consideration of the representation made by the petitioner herein to pass appropriate order according to law including failure to issue notice for adjustments, at any rate not later than four weeks from the receipt of the representation.

iv) If notice is given to the assessee

for adjustments, then after giving further opportunity to the assessee, to pass appropriate order after receipt of reply to the show cause notice.

v) If the petitioner's are still aggrieved, it will be open to the petitioner to take recourse of law which they are entitled to or in the alternative side further directions from this Court, if there is non compliance of these directions.

3. With the above directions, Rule is made absolute. There shall be no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)